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T.R.A. DOCKET ROOM

December 12, 2003

Hon. Deborah Taylor Tate  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee TN 37238

Re: Implementation of the Federal Communications Commission's  
Triennial Review Order (Nine –Month Proceeding) (Switching)  
Docket 03-00491


Dear Chairman Tate:

Enclosed please find proprietary responses on behalf of Cinergy Communications Company to BellSouth's Telecommunications, Inc.'s First Requests for Production of Documents. This information is being provided subject to the terms of the Protective Order entered in this proceeding. Non-proprietary responses are being submitted under separate cover.

Copies have been served on all parties of record.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:   
Henry Walker

HW/cw

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re: *Implementation of the Federal Communications Commission's Triennial Review Order (Nine-month Proceeding) (Switching)*  
Docket No. 03-00491

**CINERGY COMMUNICATIONS COMPANY'S RESPONSES TO  
BELLSOUTH TELECOMMUNICATIONS, INC.'S FIRST  
REQUESTS FOR PRODUCTION OF DOCUMENTS**

BellSouth Telecommunications, Inc. ("BellSouth"), hereby requests Cinergy Communications Company ("Cinergy") to provide answers in response to the following discovery requests in the time established by the Procedural Schedule provided by Director Jones on October 21, 2003.

**GENERAL OBJECTIONS**

CCC makes the following general objections to the Requests:

1. CCC objects to the "Definitions" section, the "General Instructions," and the individual request items of BellSouth's First Requests for Production of Documents to Cinergy Communications Company to the extent that they are overly broad, unduly burdensome, and/or oppressive. CCC will attempt to identify specific requests to which this objection applies within the responses that follow.
2. CCC objects to the "Definitions," the "General Instructions," and the individual request items to the extent they are irrelevant and not likely to lead to the discovery of admissible evidence. By way of illustration and not limitation, CCC objects to requests that seek materials and documents that are inconsistent with or unrelated to the parameters and methodology of the impairment analysis prescribed by the FCC in its Triennial Review Order. CCC will attempt to

identify individual requests to which this general objection is applicable within the responses that follow.

3. CCC objects to the “Definitions,” the “General Instructions,” and the request items to the extent they are vague, ambiguous, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Requests.

4. CCC objects to the “General Instructions” and the request items of BellSouth’s First Set of Requests for Production to CCC to the extent that they purport to impose discovery obligations on CCC that exceed the scope of discovery allowed by the applicable Tennessee Rules of Civil Procedure.

5. CCC objects to the “General Instructions” section and the individual request items of BellSouth’s First Requests for Production to CCC to the extent that the “instructions” purport to seek disclosure of “all” documents, materials or information in CCC’s possession. CCC’s responses will provide all nonprivileged and otherwise discoverable information obtained by CCC after a reasonable and diligent search conducted in connection with the Requests. Such search will include a review of only those files that are reasonably expected to contain the requested documents and/or information. To the extent that “instructions” or individual requests require more, CCC objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming, and unnecessary to accomplish BellSouth’s legitimate discovery needs.

6. CCC objects to BellSouth’s First Requests for Production to the extent that the requests seeks discovery of materials and/or information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

7. CCC objects to BellSouth's First Set of Requests for Production to the extent that the requests would require disclosure of information that constitutes trade secrets and/or confidential and proprietary information that should be disclosed either not at all or only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission's rules and orders governing confidentiality

8. CCC objects to all requests which would require the production of materials and/or information which is already in BellSouth's possession or is in the public record before the Commission. To duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

9. CCC objects to BellSouth's First Request for Production to the extent BellSouth seeks to impose an obligation on CCC to respond on behalf of subsidiaries and/or former officers, employees, agents, and directors on the grounds that such requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

**RESPONSES TO BELL SOUTH TELECOMMUNICATIONS, INC.'S  
REQUESTS FOR PRODUCTION**

1. Produce all documents identified in response to BellSouth's First Set of Interrogatories.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request.

2. Produce every business case in your possession, custody or control that evaluates, discusses, analyzes or otherwise refers or relates to the offering of a qualifying service in the State of Tennessee.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request.

3. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Tennessee to whom you only provide qualifying service.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request.

4. Produce all documents referring or relating to the average number of access lines you provide to end user customers in Tennessee to whom you only provide qualifying service.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request.

5. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Tennessee to whom you only provide non-qualifying service.

RESPONSE: CCC objects to no. 5 on the grounds the request to provide all documents is onerous, unduly burdensome, and goes far beyond any legitimate discovery needs. Cinergy Communications does not maintain records on average monthly revenues. Moreover, Cinergy Communications does not distinguish between qualifying and non-qualifying services. This is a regulatory distinction not recognized by our company.

6. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Tennessee to whom you provide both qualifying and non-qualifying service.

RESPONSE: See response to 5 above

7. Produce all documents referring or relating to the average number of access lines you provide to end user customers in Tennessee to whom you provide both qualifying and non-qualifying service.

RESPONSE: See response to 5 above.

8. Provide all documents referring or relating to the classifications used by Cinergy to offer service to end user customers Tennessee (e.g., residential customers, small business customers, mass market customers, enterprise customers, or whatever type of classification that you use to classify your customers).

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving objection, CCC uses business and residential classifications. See response to 10 below.

9. Produce all documents referring or relating to the average acquisition cost for each class or type of end user customer served by Cinergy, as requested in BellSouth's First Set of Interrogatories, No. 34

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving objection, CCC does not specifically calculate acquisition cost by state.

10. Produce all documents referring or relating to the typical churn for each class or type of end user customer served by Cinergy, as requested in BellSouth's First Set of Interrogatories, No. 35.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving objection, see attached Excel documents entitled UNE P TN Bus Churn and UNE P TN Res Churn.

11. Produce all documents referring or relating to how Cinergy determines whether to serve an individual customer's location with multiple DS0s or with a DS1 or larger transmission system.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving this objection, CCC does not provide facilities-based services in Tennessee and, therefore, does not perform this calculation for Tennessee.

12. Produce all documents referring or relating to the typical or average number of DS0s at which Cinergy would choose to serve a particular customer with a DS1 or larger transmission system as opposed to multiple DS0, all other things being equal.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving this objection, CCC does not provide facilities-based services in Tennessee and, therefore, does not perform this calculation for Tennessee.

13. Produce all documents referring or relating to the cost of capital used by Cinergy in evaluating whether to offer a qualifying service in a particular geographic market.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request.

14. Produce all documents referring or relating to the time period used by Cinergy in evaluating whether to offering a qualifying service in a particular geographic market (e.g., one year, five years, ten years or some other time horizon over which a project is evaluated)?

RESPONSE: CCC objects to no. 14 on the grounds that, because they relate to CCC's specific business model, it requests documents that are unrelated to the impairment analysis prescribed by the FCC in its Triennial Review Order, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC also objects to the request for "all" documents as overbroad and unduly burdensome. CCC also objects on the grounds the information sought is confidential and proprietary business information. Without waiving objection, CCC states that it normally uses 36 months for business case analysis.

15. Produce all documents referring or relating to your estimates of sales expense when evaluating whether to offer a qualifying service in a particular geographic market.



RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving objection, CCC does not currently evaluate sales cost.

16. Produce all documents referring or relating to your estimates of general and administrative (G&A) expenses when evaluating whether to offer a qualifying service in a particular geographic market.

RESPONSE: See Cinergy Communication's objections previously filed with this Commission in its initial response to this request. Without waiving objection, CCC does not currently evaluate G&A cost.

17. Produce all documents referring or relating to any complaints by Cinergy or its end user customers about individual hot cuts performed by BellSouth since January 1, 2000.

RESPONSE: None. CCC does not offer facilities-based services in Tennessee.

18. Produce all documents referring or relating to a batch hot cut process used by any ILEC in the BellSouth region that is acceptable to Cinergy or that Cinergy believes is superior to BellSouth's batch hot cut process.

RESPONSE: CCC is unaware of any documents which are responsive to this request.

19. Produce all documents referring or relating to an individual hot cut process used by any ILEC in the BellSouth region that is acceptable to Cinergy or that Cinergy believes is superior to BellSouth's individual hot cut process.

RESPONSE: CCC is unaware of any documents which are responsive to this request.

20. Produce all documents referring or relating to a batch hot cut process used by any ILEC outside the BellSouth region that is acceptable to Cinergy or that Cinergy believes is superior to BellSouth's batch hot cut process.

RESPONSE: CCC is unaware of any documents which are responsive to this request.

21. Produce all documents referring or relating to an individual hot cut process used by any ILEC outside the BellSouth region that is acceptable to Cinergy or that Cinergy believes is superior to BellSouth's individual hot cut process.

RESPONSE: CCC is unaware of any documents which are responsive to this request.

Respectfully submitted,

CINERGY COMMUNICATIONS COMPANY

By:  \_\_\_\_\_

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## CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2003, a copy of the foregoing document was serviced on the parties of record, via US mail:

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